

From: J. Nathan Matias
To: Microsoft ATR
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Subject: Microsoft Settlement

Under the Tunney Act, I would like to comment on the proposed Microsoft settlement.

As a technologist who has to get work done every day and as a person who is trying to escape the grip of Microsoft's monopoly, I have several concerns about the proposed settlement.

First, I find it disturbing that the proposed settlement does not adequately prohibit Microsoft from using monopolistic tactics against Open Source software. Though I do some Open Source programming for corporations, I also spend my personal time writing software for my personal use and the enjoyment of others. Certain Microsoft licensing tactics used in the past could prohibit users from installing my software on their computers or prevent companies from distributing my software on the same media as Microsoft products. This restrictive practice of Microsoft will not be curbed in the proposed settlement.

As a programmer, I am excited about the access to APIs that may result from this settlement, but I find that the definition of API is limited so as to be of little use to me. APIs that are necessary to create a reasonably good application are not included in the definition; these bare patches in the settlement would make my use of Microsoft APIs (as defined in the settlement proposal) nearly impossible.

The proposed settlement rightfully allows users to replace Microsoft's Java software. However, this is a headless arrow, for Microsoft itself is replacing Java...with a new technology called .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware.

This brings me to another point. I find the terms much too specific. This allows Microsoft to continue its long-standing monopolistic tradition of hijacking new technologies when old ones no longer become profitable. It is very likely that within a few years the settlement will no longer apply, since the technology sector innovates so quickly and changes so rapidly. Unfortunately, such progress, which should benefit the average person most of all, would only serve to bring Microsoft out from under the too-specific terms of the proposed settlement.

One place where the settlement proposal is too specific is in the actual Microsoft operating systems that are discussed. Several Windows operating systems, such as Windows CE, the X-Box operating system, Pocket PC, and the Windows XP Tablet PC edition all use the same Windows API, but are not covered in the terms of the proposal. This is a dangerous omission in the proposal, as it would allow Microsoft to refocus on those products not discussed in the settlement, effectively sidestepping the settlement's provisions.

Furthermore, the proposal allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system. Why guarantee Microsoft its monopoly by assuming unequivocal 100% monopoly in the proposal? If you want to ensure competition, then make sure Microsoft cannot apply its old tricks towards OEMs who foster competition by selling computers with other OSs.

Another of Microsoft's old tricks is to include intentional incompatibilities in supposedly standards-compliant software to force users to follow the monopoly. The proposal speaks nothing of this practice, which is one which we technologists feel the bite of every day whenever we look at a web site,

connect to the network, or write a piece of software.

We technologists also feel the bite of Microsoft when we attempt to write software that is compatible with Microsoft Office and other productivity software. File formats used by Microsoft are highly secret, which enforces that one either pay huge licensing prices or just use a Microsoft solution. These file formats are truly the iron grip through which Microsoft extends and keeps its monopoly. Time and time again I have suggested to people that they use competing office or productivity software, and time and time again the response is that if it doesn't work with Office, then it's too dangerous to use. Unfortunately, the problem is not on the part of the third-party software; the problem lies with Microsoft's monopolistic manipulation of file formats.

Thank you for your time and consideration; I trust that the final result of this whole process will be a technology industry that once again is a garden of innovation and flowering beauty rather than the muddled mess we now have on our hands.

--J. Nathan Matias